



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/647,736 | 10/04/2000 | Caroline A M Lebre | 36-1358 | 2449 |

7590 11/22/2004

Nixon & Vanderhye
8th Floor
1100 North Glebe Road
Arlington, VA 22201-4714

| |
|----------|
| EXAMINER |
|----------|

CARDONE, JASON D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2145 | |

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/647,736

Applicant(s)

LEBRE ET AL.

Examiner

Jason D Cardone

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the remarks of the applicant (Paper No. 8) filed on 8/2/04. Claims 1-28 are presented.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang, USPN 6,282,580, in view of Whalen et al. ("Whalen"), USPN 5,948,066.
4. Regarding claim 21, Chang discloses a proxy for use in a distributed computing environment wherein a client and a server object process data, the proxy being operable to send the server object from a first place where it communicates with the client, through the distributed computing environment towards a second different place to perform data processing [Chang, col. 1, lines 53-60, col. 2, lines 36-49, and col. 5, lines 7-58].

Chang does not disclose a server, in the first place, communicating to the client. However, Whalen, in the same field of endeavor, discloses communication between a client and a server, in a first place [Whalen, col. 7, lines 16-49]. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to

Art Unit: 2145

incorporate a server communication, in the first place, taught by Whalen, into the object-oriented system, taught by Chang, in order to distinguish which server is which.

5. Regarding claim 22, Chang-Whalen further discloses freezing incoming calls for data processing to the agent at the first place whilst it is being sent from the first place to the second place, and thereafter to direct the frozen calls towards the second place to be processed by the server when it has become functional at the second place [Chang, col. 5, lines 7-58] [Whalen, col. 5, lines 42-62].

6. Regarding claim 23, Chang-Whalen further discloses waiting for the server to complete its current processing tasks before sending it to the second place [Chang, col. 6, lines 52-63] [Whalen, col. 5, lines 42-62].

7. Regarding claim 24, Chang-Whalen further discloses serializing the server from an operational configuration at the first place into a configuration suitable for transmission through the distributed environment to the second place [Chang, col. 5, lines 7-58] [Whalen, col. 7, lines 16-49].

8. Regarding claims 1-20 and 25-28, claims 1-20 and 25-28 have similar limitations as claims 21-24. Therefore, they are rejected under Chang-Whalen for the same reasons set forth in the rejection of claims 21-24 [Supra 21-24].

Response to Arguments

9. Applicant's arguments filed 8/2/04 have been fully considered but they are not persuasive.

10. (A) Neither Chang nor Whalen discloses a mobile server within a distributed computing environment.

As to point (A), Chang discloses a proxy being operable to send the server object from a first place where it communicates with the client, through the distributed computing environment towards a second different place to perform data processing [Chang, col. 2, lines 36-49, and col. 5, lines 7-58]. It is noted that the feature upon which applicant relies (i.e., "mobile server") is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). During patent examination and prosecution, claims must be given their broadest reasonable interpretation (ie. "server" and "distributed computing environment"). The proxy object of Chang does the same function as the "server" in the instant claim but does specifically disclose a server, in the first place, communicating to the client. However, Whalen, in the same field of endeavor, discloses communication between a client and a server, in a first place [Whalen, col. 7, lines 16-49]. Therefore, it is the combination of Chang and Whalen that discloses a server within a distributed environment.

Art Unit: 2145

11. (B) Neither Chang nor Whalen discloses freezing incoming calls for the server at a first place while the server is being sent from the first place to a second different place.

As to point (B), the combination of Chang and Whalen discloses freezing incoming calls for the server [ie. held, Whalen, col. 5, lines 42-62] at a first place while the server is being sent from the first place to a second different place [ie. moving from the first place to a second place, Chang, col. 5, lines 22-47]. During patent examination and prosecution, claims must be given their broadest reasonable interpretation.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

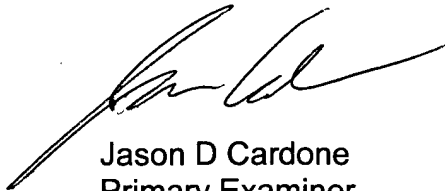
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2145

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason D Cardone whose telephone number is (703) 305-8484. The examiner can normally be reached on Mon.-Thu. (9AM-6PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on (703) 305-9705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason D Cardone
Primary Examiner
Art Unit 2145

November 17, 2004